

House Bill 1222 (AS PASSED HOUSE AND SENATE)

By: Representatives Channell of the 116th, Parrish of the 156th, Stephens of the 164th, Sheldon of the 105th, Gardner of the 57th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 8 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the "'Health Share' Volunteers in Medicine Act," so as to add definitions; to revise certain provisions relating to requirements for entering into contracts with health care providers; to amend Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as to revise certain provisions relating to volunteer health care workers; to require that health care licensing boards issue special licenses if certain conditions are met; to require that a health care practitioner that is under sanctions or restrictions shall not receive a special license; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 8 of Chapter 8 of Title 31 of the Official Code of Georgia Annotated, relating to the "'Health Share' Volunteers in Medicine Act," is amended by revising Code Section 31-8-192, relating to definitions, as follows:

"31-8-192.

As used in this article, the term:

(1) 'Contract' means an agreement executed in compliance with this article between a health care provider and a governmental contractor. This contract shall allow the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services. Payments made to a health care provider from the Indigent Care Trust Fund shall not constitute compensation under this article.

(2) 'Department' means the Department of Community Health.

(3) 'Disciplinary action' means any action taken by a licensing board to reprimand a medical practitioner included as a health care provider pursuant to paragraph (5) of this Code section for inappropriate or impermissible behavior.

~~(3)~~(4) 'Governmental contractor' means the department or its designee or designees.

~~(4)~~(5) 'Health care provider' or 'provider' means:

(A) An ambulatory surgical center licensed under Article 1 of Chapter 7 of this title;

(B) A hospital or nursing home licensed under Article 1 of Chapter 7 of this title;

(C) A physician or physician assistant licensed under Article 2 of Chapter 34 of Title 43;

(D) An osteopathic physician or osteopathic physician assistant licensed under Article 2 of Chapter 34 of Title 43;

(E) A chiropractic physician licensed under Chapter 9 of Title 43;

(F) A podiatric physician licensed under Chapter 35 of Title 43;

(F.1) A physical therapist licensed under Chapter 33 of Title 43;

(G) A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under Chapter 26 of Title 43 or any facility which employs nurses licensed or registered under Chapter 26 of Title 43 to supply all or part of the care delivered under this article;

(H) A midwife certified under Chapter 26 of this title;

(I) A speech-language pathologist or audiologist licensed under Chapter 44 of Title 43;

(J) An optometrist certified under Chapter 30 of Title 43;

(K) A professional counselor, social worker, or marriage and family therapist licensed under Chapter 10A of Title 43;

(L) An occupational therapist licensed under Chapter 28 of Title 43;

(M) A psychologist licensed under Chapter 39 of Title 43;

(N) A dietitian licensed under Chapter 11A of Title 43;

(O) A pharmacist licensed under Chapter 4 of Title 26;

~~(H)~~(P) A health maintenance organization certificated under Chapter 21 of Title 33;

~~(J)~~(Q) A professional association, professional corporation, limited liability company, limited liability partnership, or other entity which provides or has members which provide health care services;

~~(K)~~(R) Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment and which includes an office maintained by a provider;

~~(L)~~(S) A dentist or dental hygienist licensed under Chapter 11 of Title 43; or

~~(M)~~(T) Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs (C) through ~~(H)~~(O) of this paragraph.

The term includes any nonprofit corporation qualified as exempt from federal income taxation under Section 501(c) of the Internal Revenue Code which delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

~~(5)~~(6) 'Low-income' means:

(A) A person who is Medicaid eligible under the laws of this state;

(B) A person:

(i) Who is without health insurance; or

(ii) Who has health insurance that does not cover the injury, illness, or condition for which treatment is sought; and

whose family income does not exceed 200 percent of the federal poverty level as defined annually by the federal Office of Management and Budget;

(C) A person:

(i) Who is without dental insurance; or

(ii) Who has dental insurance that does not cover the injury, illness, or condition for which treatment is sought; and

whose family income does not exceed 200 percent of the federal poverty level as defined annually by the federal Office of Management and Budget; or

(D) Any client or beneficiary of the department or the Department of Human Resources who voluntarily chooses to participate in a program offered or approved by the department or the Department of Human Resources and meets the program eligibility guidelines of the department or the Department of Human Resources whose family income does not exceed 200 percent of the federal poverty level as defined annually by the federal Office of Management and Budget.

~~(6)~~(7) 'Occasional-service volunteer' means a volunteer who provides one-time or occasional volunteer service.

~~(7)~~(8) 'Regular-service volunteer' means a volunteer engaged in specific voluntary service activities on an ongoing or continuous basis.

(9) 'Restriction' means any limitation imposed by a licensing board on a medical practitioner included as a health care provider pursuant to paragraph (5) of this Code section.

(10) 'Sanction' means any penalty imposed by a licensing board or other regulatory entity on a medical practitioner included as a health care provider pursuant to paragraph (5) of this Code section.

~~(8)~~(11) 'Volunteer' means any person who, of his or her own free will, and in support of or in assistance to the program of health care services provided pursuant to this article to

any governmental contractor, provides goods or clerical services, computer services, or administrative support services, with or without monetary or material compensation. This term shall not include a health care provider."

SECTION 2.

Said article is further amended by revising subsection (c) of Code Section 31-8-193, relating to the establishment of a program to provide for health care services to low-income recipients, as follows:

"(c) In order to enter into a contract under this Code section, a health care provider shall:

(1) Have a current valid Georgia health professional license;

(2) Not be under probation or suspension by the applicable licensing board or subject to other restrictions, sanctions, or disciplinary actions imposed by the applicable licensing board. The department, in its discretion, shall determine if a past restriction, sanction, or disciplinary action imposed by the applicable licensing board is of such a grave and offensive nature with respect to patient safety concerns as to warrant refusal to enter into a contract with such health care provider pursuant to this subsection;

(3) Not be subject to intermediate sanction by the Centers for Medicare and Medicaid Services for medicare or Medicaid violations or be subject to sanctions with regard to other federally funded health care programs; and

~~(3)~~(4) Submit to a credentialing process to determine acceptability of participation."

SECTION 3.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by revising Code Section 43-1-28, relating to volunteers in health care specialties, as follows:

"43-1-28.

(a) This Code section shall be known and may be cited as the 'Georgia Volunteers in Health Care Specialties Act.'

(b) As used in this Code section, the term:

(1) 'Health care board' means that professional licensing board which licenses a health care practitioner under this title.

(2) 'Health care practitioner' means a chiropractor, registered professional nurse, podiatrist, optometrist, professional counselor, social worker, marriage and family therapist, occupational therapist, physical therapist, physician's assistant, licensed practical nurse, ~~or~~ certified nurse midwife, pharmacist, speech-language pathologist, audiologist, psychologist, or dietitian.

(3) 'Health care specialty' means the practice of chiropractic, nursing, podiatry, optometry, professional counseling, social work, marriage and family therapy, occupational therapy, physical therapy, physician assistance, ~~or midwifery, pharmacy,~~ speech-language pathology, audiology, psychology, or dietetics.

(4) 'Unrestricted' means that no restrictions have been placed on a health care practitioner's license by a health care board, no sanctions or disciplinary actions have been imposed by a health care board on a health care practitioner, and a health care practitioner is not under probation or suspension by a health care board.

(c) Notwithstanding any other provision of law, each health care board ~~may~~ shall issue a special license to qualifying health care practitioners whose health care specialty is licensed by that board under the terms and conditions set forth in this Code section. The special license ~~may~~ shall only be issued to a person who: ~~Notwithstanding any other provision of law, each health care board may issue a special license to qualifying health care practitioners whose health care specialty is licensed by that board under the terms and conditions set forth in this Code section. The special license may only be issued to a person who:~~

(1) Is currently licensed to practice the applicable health care specialty in any health care specialty licensing jurisdiction in the United States and whose license is unrestricted and in good standing; or

(2) Is retired from the practice of the health care specialty or, in the case of a physician's assistant, has an inactive license and is not currently engaged in such practice either full time or part time and has, prior to retirement or attaining inactive status, maintained full licensure unrestricted in good standing in the applicable health care specialty licensing jurisdiction in the United States.

(d) The special licensee shall be permitted to practice the health care specialty only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide health care specialty services only to indigent patients in areas which are underserved by that specialty or critical need population areas of the state, as determined by the board which licenses that specialty, or pursuant to Article 8 of Chapter 8 of Title 31.

(e) The person applying for the special license under this Code section shall submit to the appropriate health care board a copy of his or her health care specialty degree, a copy of his or her health care specialty license in his or her current or previous licensing and regulating jurisdiction, and a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by that board, whereby he or she agrees unequivocally not to receive compensation for any health care specialty services he or she may render while in possession of the special license.

(f) Examinations by the health care board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(g) If, at the time application is made for the special license, the health care practitioner is not in compliance with the continuing education requirements established by the health care board for the applicable health care specialty, the health care practitioner shall be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(h)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing a health care specialty under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1, except that a podiatrist engaged in such practice and an employer thereof shall have the same immunity from liability as provided other health care practitioners under Code Section 51-1-29.1.

(2) The liability of persons practicing a health care specialty pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by the provisions of such article.

(i) This Code section, being in derogation of the common law, shall be strictly construed."

SECTION 4.

Said title is further amended by revising Code Section 43-11-52, relating to volunteers in dentistry and dental hygiene, as follows:

"43-11-52.

(a) This Code section shall be known and may be cited as the 'Georgia Volunteers in Dentistry and Dental Hygiene Act.'

(b) Notwithstanding any other provision of law, the board ~~may~~ shall issue a special license to qualifying dentists and dental hygienists under the terms and conditions set forth in this Code section and pursuant to requirements which may be set forth in the rules and regulations of the board. The special license ~~may~~ shall only be issued to a person who is retired from the practice of dentistry or dental hygiene and not currently engaged in such practice either full time or part time and has, prior to retirement, maintained full unrestricted licensure in good standing in dentistry or dental hygiene in any state. As used in this subsection, the term 'unrestricted' means that no restrictions have been placed on the applicant's license by the board, no sanctions or disciplinary actions have been imposed by the board on the applicant, and the applicant is not under probation or suspension by the board.

(c) The special licensee shall be permitted to practice dentistry or dental hygiene only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide dentistry or dental hygiene services only to indigent patients in areas which are underserved by dentists or dental hygienists or critical need population areas of the state, as determined by the board, or pursuant to Article 8 of Chapter 8 of Title 31. The practice of dental hygiene by a dental hygienist awarded a special license under this Code section shall be governed by Code Section 43-11-74.

(d) The person applying for the special license under this Code section shall submit to the board a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by the board, whereby he or she agrees unequivocally not to receive compensation for any dentistry or dental hygiene services he or she may render while in possession of the special license.

(e) The examination by the board, any application fees, and all licensure and renewal fees may be waived for the holder of the special license under this Code section.

(f) If, at the time application is made for the special license, the dentist or dental hygienist is not in compliance with the continuing education requirements established by the board for dentists or dental hygienists in this state, the dentist or dental hygienist may be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license.

(g)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons practicing dentistry or dental hygiene under and in compliance with a special license issued under this Code section and the liability of their employers for such practice shall be governed by Code Section 51-1-29.1.

(2) The liability of persons practicing dentistry or dental hygiene pursuant to Article 8 of Chapter 8 of Title 31 under and in compliance with a special license issued under this Code section shall be governed by the provisions of such article.

(h) This Code section, being in derogation of the common law, shall be strictly construed.

(i) Application for a license under this Code section shall constitute consent for performance of a criminal background check. Each applicant who submits an application to the board for licensure agrees to provide the board with any and all information necessary to run a criminal background check, including but not limited to classifiable sets of fingerprints. The applicant shall be responsible for all fees associated with the performance of a background check."

SECTION 5.

Said title is further amended by revising Code Section 43-34-45.1, relating to special licenses for volunteers, as follows:

"43-34-45.1.

(a) This Code section shall be known and may be cited as the 'Georgia Volunteers in Medicine Health Care Act.'

(b) Notwithstanding any other provision of law, the board ~~may~~ shall issue a special license to qualifying physicians under the terms and conditions set forth in this Code section. The special license ~~may~~ shall only be issued to a person who:

(1) Is currently licensed to practice medicine in any medical-licensing jurisdiction in the United States and whose license is unrestricted and in good standing; or

(2) Is retired from the practice of medicine and not currently engaged in such practice either full time or part time and has, prior to retirement, maintained full licensure in good standing in any medical-licensing jurisdiction in the United States.

As used in this subsection, the term 'unrestricted' means that no restrictions have been placed on a physician's license by the board, no sanctions or disciplinary actions have been imposed by the board on a physician, and a physician is not under probation or suspension by the board.

(c) The special licensee shall be permitted to practice medicine only in the noncompensated employ of public agencies or institutions or not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide medical services only to indigent patients in medically underserved or critical need population areas of the state, as determined by the board, or pursuant to Article 8 of Chapter 8 of Title 31.

(d) The person applying for the special license under this Code section shall submit to the board a copy of his or her medical degree, a copy of his or her license in his or her current or previous licensing and regulating jurisdiction, and a notarized statement from the employing agency, institution, corporation, association, or health care program, on a form prescribed by the board, whereby he or she agrees unequivocally not to receive compensation for any medical services he or she may render while in possession of the special license.

(e) The examination by the board, any application fees, and all licensure and renewal fees must be waived for the holder of the special license under this Code section and do not apply to such person.

(f) If at the time application is made for the special license the physician is not in compliance with the continuing medical education requirements established by the board,

1 the physician shall be issued a nonrenewable temporary license to practice for six months
2 provided the applicant is otherwise qualified for such license.

3 (g)(1) Except as provided for in paragraph (2) of this subsection, the liability of persons
4 practicing medicine under and in compliance with a special license issued under this
5 Code section and the liability of their employers for such practice shall be governed by
6 Code Section 51-1-29.1.

7 (2) The liability of persons practicing medicine pursuant to Article 8 of Chapter 8 of
8 Title 31 under and in compliance with a special license issued under this Code section
9 and the liability of their employers shall be governed by the provisions of such article.

10 (h) Nothing contained in this Code section shall be construed to authorize the holder of the
11 special license provided for in this Code section to perform surgery or any surgical
12 procedure.

13 (i) This Code section, being in derogation of the common law, shall be strictly construed."

14 **SECTION 6.**

15 All laws and parts of laws in conflict with this Act are repealed.